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RE: SUSAN E. PALOMBO, L.P.N.

Licensee.

: **ORDER OF**
 : **SUMMARY SUSPENSION AND**
 : **NOTICE OF HEARING**

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WHEREAS, on or about May 4, 2007, the South Dakota Board of Nursing received a complaint from the Wakonda Heritage Manor Nursing Home in Wakonda, South Dakota, alleging that Licensee possibly diverted Oxycodone from the facility while working as a nurse for Tri-State Agency. After receiving the complaint, Board of Nursing staff commenced an investigation.

At the Informal Meeting, Licensee denied that she had any involvement with diversion of Oxycodone from Wakonda Heritage Manor.

On or about May 18, 2006, the Board of Nursing was advised that DCI was also investigating the diversion allegations from Wakonda Heritage Manor as it related to the Licensee.

On or about July 3, 2007, the Board of Nursing received a complaint from Bethany Lutheran Home in Sioux Falls, South Dakota. Bethany Lutheran advised that the Licensee had been terminated from her employment there for unsafe practices. It was reported that Licensee, while at work on July 1, 2007, was not feeling well and went home at 9:00 a.m. The medications that Licensee was to have dispensed to her patients at 8:00 a.m. that morning were all found in the garbage.

On July 3, 2007, following receipt of the complaint, the Board of Nursing contacted the Licensee by phone and requested that she voluntarily refrain from practice while they investigated the complaint received against her. The Licensee personally came to the Board of Nursing office at approximately 3:00 p.m. that day and left her nursing license at the desk with the receptionist and left the office.

Also on July 3, 2007, the Board of Nursing issued a notice to the Licensee to attend another Informal Meeting as part of the investigative process. The Informal Meeting was to take place on July 18, 2007, and was scheduled to discuss the recent complaint received by the Board.

On July 17, 2007, a day before the Informal Meeting, Licensee called the Board office and left a message stating that she would not be available for the July 18, 2007,

meeting and wanted to reschedule to August 2, 2007, as she was getting a new job.

On July 19, 2007, Board of Nursing staff was finally able to contact the Licensee regarding her nonattendance at the Informal Meeting. The Licensee was angry at the time and stated that she was not working as a nurse, refused to disclose her current employer, and informed staff that she was leaving the country for vacation and would not be back until mid-August. Board staff then agreed to reschedule her Informal Meeting for August 17, 2007.

On August 16, 2007, a day before the scheduled informal meeting, the Board received a facsimile from the Licensee stating that she would not be appearing for the Informal Meeting. In her fax, she confessed to throwing the pills in the trash so that she could conclude her shift. Licensee felt that this fax was enough to address the complaint made by Bethany Lutheran Home. She indicated that she would take a reprimand from the Board, but did not think that she needed to surrender her nursing license.

WHEREAS, based upon the affidavit of Andrew Albers and the above stated conduct, the Board has concluded that the public health, safety and welfare requires emergency action, in that Licensee's actions may endanger the health and safety of those who are, or will be, entrusted to her care in the future; and

WHEREAS, the Board, has a statutory obligation to protect the health, safety and welfare set forth in SDCL §36-9, including the protection of the public from unsafe nursing practices and practitioners.

NOW THEREFORE IT IS HEREBY ORDERED:

1. That the Board has jurisdiction of the Licensee and the subject matter of this Order.
2. That based on the above, the Board specifically finds that the public health, safety and welfare require emergency action against Licensee's license.
3. That based on the above, the Board specifically finds that the Licensee's actions endanger the public health, safety and welfare, and imperatively requires emergency action in that Licensee may endanger the health and safety of those persons who are or will be entrusted to her care in the future and that these are matters of a nature that would constitute further grounds for discipline of her license to practice nursing under SDCL § 36-9-49.
4. Based upon these findings, Licensee's license to practice nursing in South Dakota is hereby summarily suspended. Licensee may petition according to SDCL § 36-9-57 for reinstatement of her license at any time for "good cause". This Order also affects licensee's privilege to practice in South Dakota. Should licensee change her home state under the Nurse Licensure Compact, then licensee's practice privilege is subject to the same requirements as set forth in this order as her South Dakota license.
5. That Licensee shall turn in her license to the Board within ten (10) days from the date of this Order and it shall be kept by the Board until further action on this matter.

6. Licensee is hereby notified that any practice of or holding herself out as a Registered Nurse during the terms of this Order of Summary Suspension is a violation of SDCL § 36-9-68.

The South Board of Nursing at its meeting on the 12th day of September, 2007, approved this Order of Summary Suspension as written without modifications and issues its Order of Summary Suspension consistent herein as follows:

IT IS HEREBY ORDERED that the above is adopted as an Order of the South Dakota Board of Nursing this 12th day of September, 2007, by a vote of 10 - 0.

SOUTH DAKOTA BOARD OF NURSING


Gloria Damgaard, Executive Director

NOTICE OF HEARING

The South Dakota Board of Nursing ("Board") pursuant to SDCL §§ 1-26-16, 1-26-27, and 1-26-29, hereby provides this Notice of Hearing to Susan E. Palombo, L.P.N., License No. P-009900 ("Licensee") as follows:

1. Hearing on the Order of Summary Suspension will take place before the Board on November 1, 2007, at 1:00 o'clock p.m. at 4305 S. Louise Avenue, Suite 201 in Sioux Falls, South Dakota.
2. This matter is an adversarial proceeding and Licensee has the right to be

present at the hearing and to be represented by an attorney. These due process rights will be forfeited if they are not exercised at the hearing.

3. Licensee has a right to request that the agency use the Office of Hearing Examiners for this proceeding by giving notice of the request to the Board no later than ten (10) days after the service of this Notice of Hearing on Order of Summary Suspension.

4. A decision issued by the Board after the hearing may be appealed to the circuit court and to the state Supreme Court as provided by law.

Dated this 17 day of September, 2007.

SOUTH DAKOTA BOARD OF NURSING



Gloria Damgaard, Executive Director